

103D CONGRESS  
1ST SESSION

# S. 171

To establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. GLENN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BRYAN, Mr. BUMPERS, Mr. COHEN, Mr. DODD, Mr. GRAHAM, Mr. JEFFORDS, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, and Mr. SASSER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

MARCH 31 (legislative day, MARCH 3), 1993

Reported by Mr. GLENN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 31 (legislative day, MARCH 3), 1993

Referred, pursuant to the order of March 30 (legislative day, March 3), 1993, to the Committee on Environment and Public Works solely for consideration of section 112

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## A BILL

To establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Department of the Environment Act of 1993”.

4 (b) TABLE OF CONTENTS.—The table of contents is  
5 as follows:

Sec. 1. Short title and table of contents.

TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION  
AGENCY TO CABINET LEVEL

Sec. 101. Short title.  
Sec. 102. Findings.  
Sec. 103. Establishment of the Department of the Environment.  
Sec. 104. Assistant Secretaries.  
Sec. 105. Deputy Assistant Secretaries.  
Sec. 106. Office of the General Counsel.  
Sec. 107. Office of the Inspector General.  
Sec. 108. Bureau of Environmental Statistics.  
Sec. 109. Grant and contract authority for certain activities.  
Sec. 110. Study of data needs.  
Sec. 111. Miscellaneous employment restrictions.  
Sec. 112. Administrative provisions.  
Sec. 113. Inherently governmental functions.  
Sec. 114. References.  
Sec. 115. Savings provisions.  
Sec. 116. Conforming amendments.  
Sec. 117. Additional conforming amendments.

TITLE II—ENVIRONMENTAL ROLE OF THE UNITED STATES IN  
INTERNATIONAL ORGANIZATIONS TO WHICH IT BELONGS

Sec. 201. International energy conference.  
Sec. 202. International greenhouse gas monitoring program.

TITLE III—ESTABLISHMENT OF THE COMMISSION ON IMPROVING  
ENVIRONMENTAL PROTECTION

Sec. 301. Establishment; membership.  
Sec. 302. Commission responsibilities.  
Sec. 303. Report to the President and Congress.  
Sec. 304. Commission staff.  
Sec. 305. Advisory groups.  
Sec. 306. Funding; authorization of appropriations.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

1 **TITLE I—ELEVATION OF THE EN-**  
 2 **VIROMENTAL PROTECTION**  
 3 **AGENCY TO CABINET LEVEL**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Department of the  
 6 Environment Act”.

7 **SEC. 102. FINDINGS.**

8 The Congress finds that—

9 (1) recent concern with Federal environmental  
 10 policy has highlighted the necessity of assigning to  
 11 protection of the domestic and international environ-  
 12 ment a priority which is at least equal to that as-  
 13 signed to other functions of the Federal Govern-  
 14 ment;

15 (2) protection of the environment increasingly  
 16 involves negotiations with foreign states, including  
 17 the most highly industrialized states all of whose top  
 18 environmental officials have ministerial status;

19 (3) the size of the budget and the number of  
 20 Federal civil servants devoted to tasks associated  
 21 with environmental protection at the Environmental  
 22 Protection Agency is commensurate with depart-  
 23 mental status; and

24 (4) a cabinet-level Department of the Environ-  
 25 ment should be established.

1 **SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE**  
2 **ENVIRONMENT.**

3 (a) ~~REDESIGNATION.~~—The Environmental Protec-  
4 tion Agency is hereby redesignated as the Department of  
5 the Environment (hereafter referred to as the “Depart-  
6 ment”) and shall be an executive department in the execu-  
7 tive branch of the Government. The official acronym of  
8 the Department shall be the “U.S.D.E.”.

9 (b) ~~SECRETARY OF THE ENVIRONMENT.~~—(1) There  
10 shall be at the head of the Department a Secretary of the  
11 Environment who shall be appointed by the President, by  
12 and with the advice and consent of the Senate. The De-  
13 partment shall be administered under the supervision and  
14 direction of the Secretary.

15 (2) The Secretary may not assign duties for or dele-  
16 gate authority for the supervision of the Assistant Sec-  
17 retaries, the General Counsel, the Director of Environ-  
18 mental Statistics, or the Inspector General of the Depart-  
19 ment to any officer of the Department other than the Dep-  
20 uty Secretary.

21 (3) Except as described under paragraph (2) of this  
22 section and section 104(b)(2), and notwithstanding any  
23 other provision of law, the Secretary may delegate any  
24 functions including the making of regulations to such offi-  
25 cers and employees of the Department as the Secretary  
26 may designate, and may authorize such successive

1 redelegations of such functions within the Department as  
2 determined to be necessary or appropriate.

3       ~~(c) DEPUTY SECRETARY.—There shall be in the De-~~  
4 ~~partment a Deputy Secretary of the Environment, who~~  
5 ~~shall be appointed by the President, by and with the advice~~  
6 ~~and consent of the Senate. The Deputy Secretary shall~~  
7 ~~perform such responsibilities as the Secretary shall pre-~~  
8 ~~scribe and shall act as the Secretary during the absence~~  
9 ~~or disability of the Secretary or in the event of a vacancy~~  
10 ~~in the Office of Secretary.~~

11       ~~(d) OFFICE OF THE SECRETARY.—The Office of the~~  
12 ~~Secretary shall consist of a Secretary and a Deputy Sec-~~  
13 ~~retary and may include an Executive Secretary and such~~  
14 ~~other executive officers as the Secretary may determine~~  
15 ~~necessary.~~

16       ~~(e) REGIONAL OFFICES.—The Secretary is author-~~  
17 ~~ized to establish, alter, discontinue, or maintain such re-~~  
18 ~~gional or other field offices as he may determine necessary~~  
19 ~~to carry out the functions vested in him or other officials~~  
20 ~~of the Department.~~

21       ~~(f) INTERNATIONAL RESPONSIBILITIES OF THE SEC-~~  
22 ~~RETARY.—(1) In addition to exercising other international~~  
23 ~~responsibilities under existing provisions of law, the~~  
24 ~~Secretary is—~~

1           (A) encouraged to assist the Secretary of State  
2           to carry out his primary responsibilities for coordi-  
3           nating, negotiating, implementing and participating  
4           in international agreements, including participation  
5           in international organizations, relevant to environ-  
6           mental protection; and

7           (B) authorized and encouraged to—

8                   (i) conduct research on and apply existing  
9                   research capabilities to the nature and impacts  
10                  of international environmental problems and de-  
11                  velop responses to such problems; and

12                   (ii) provide technical and other assistance  
13                  to foreign countries and international bodies to  
14                  improve the quality of the environment.

15          (2) The Secretary of State shall consult with the Sec-  
16          retary of the Environment and such other persons as he  
17          determines appropriate on such negotiations, implementa-  
18          tions, and participations described under paragraph  
19          (1)(A).

20          (g) AUTHORITY OF THE SECRETARY WITHIN THE  
21          DEPARTMENT.—Nothing in the provisions of this Act—

22                  (1) authorizes the Secretary of the Environ-  
23                  ment to require any action by any officer of any ex-  
24                  ecutive department or agency other than officers of  
25                  the Department of the Environment, except that this

1 paragraph shall not affect any authority provided for  
 2 by any other provision of law authorizing the Sec-  
 3 retary of the Environment to require any such ac-  
 4 tions;

5 (2) modifies any Federal law that is adminis-  
 6 tered by any executive department or agency; or

7 (3) transfers to the Department of the Environ-  
 8 ment any authority exercised by any other Federal  
 9 executive department or agency prior to the date of  
 10 the enactment of this Act, except the authority exer-  
 11 cised by the Environmental Protection Agency.

12 (h) APPLICATION TO THE DEPARTMENT OF THE EN-  
 13 VIRONMENT.—The provisions of this Act apply only to ac-  
 14 tivities of the Department of the Environment, except  
 15 where expressly provided otherwise.

16 **SEC. 104. ASSISTANT SECRETARIES.**

17 (a) ESTABLISHMENT OF POSITIONS.—There shall be  
 18 in the Department such number of Assistant Secretaries,  
 19 not to exceed 10, as the Secretary shall determine, each  
 20 of whom shall be appointed by the President, by and with  
 21 the advice and consent of the Senate.

22 (b) RESPONSIBILITIES OF ASSISTANT SECRETAR-  
 23 IES.—(1) The Secretary shall assign to Assistant Sec-  
 24 retaries such responsibilities as the Secretary considers  
 25 appropriate, including, but not limited to—

- 1           ~~(A)~~ enforcement and compliance monitoring;
- 2           ~~(B)~~ research and development;
- 3           ~~(C)~~ air and radiation;
- 4           ~~(D)~~ water;
- 5           ~~(E)~~ pesticides and toxic substances;
- 6           ~~(F)~~ solid waste;
- 7           ~~(G)~~ hazardous waste;
- 8           ~~(H)~~ hazardous waste cleanup;
- 9           ~~(I)~~ emergency response;
- 10          ~~(J)~~ international affairs;
- 11          ~~(K)~~ policy, planning, and evaluation;
- 12          ~~(L)~~ pollution prevention;
- 13          ~~(M)~~ congressional, intergovernmental, and pub-
- 14          lie affairs; and
- 15          ~~(N)~~ administration and resources management,
- 16          including financial and budget management, infor-
- 17          mation resources management, procurement and as-
- 18          sistance management, and personnel and labor rela-
- 19          tions.
- 20          ~~(2)~~ The Secretary may assign and modify any respon-
- 21          sibilities at his discretion under paragraph ~~(1)~~, except that
- 22          the Secretary may not modify the responsibilities of any
- 23          Assistant Secretary without substantial prior written noti-
- 24          fication of such modification to the appropriate commit-
- 25          tees of the Senate and the House of Representatives.



1       ~~(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO~~  
 2       ~~CONFIRMATION.—Whenever the President submits the~~  
 3       ~~name of an individual to the Senate for confirmation as~~  
 4       ~~Assistant Secretary under this section, the President shall~~  
 5       ~~state the particular responsibilities of the Department~~  
 6       ~~such individual shall exercise upon taking office.~~

7       ~~(d) CONTINUING PERFORMANCE OF FUNCTIONS.—~~  
 8       ~~On the effective date of this Act, the Administrator and~~  
 9       ~~Deputy Administrator of the Environmental Protection~~  
 10       ~~Agency shall be redesignated as the Secretary and Deputy~~  
 11       ~~Secretary of the Department of the Environment, Assist-~~  
 12       ~~ant Administrators of the Agency shall be redesignated as~~  
 13       ~~Assistant Secretaries of the Department, and the General~~  
 14       ~~Counsel and the Inspector General of the Agency shall be~~  
 15       ~~redesignated as the General Counsel and the Inspector~~  
 16       ~~General of the Department, without renomination or re-~~  
 17       ~~confirmation.~~

18       ~~(e) CHIEF INFORMATION RESOURCES OFFICER.—(1)~~  
 19       ~~The Secretary shall designate the Assistant Secretary~~  
 20       ~~whose responsibilities include information resource man-~~  
 21       ~~agement functions as required by section 3506 of title 44,~~  
 22       ~~United States Code, as the Chief Information Resources~~  
 23       ~~Officer of the Department.~~

24       ~~(2) The Chief Information Resources Officer shall—~~

1           (A) advise the Secretary on information re-  
2           source management activities of the Department as  
3           required by section 3506 of title 44, United States  
4           Code;

5           (B) develop and maintain an information re-  
6           sources management system for the Department  
7           which provides for—

8                 (i) the conduct of and accountability for  
9                 any acquisitions made pursuant to a delegation  
10                of authority under section 111 of the Federal  
11                Property and Administrative Services Act of  
12                1949 (40 U.S.C. 759);

13               (ii) the implementation of all applicable  
14               government-wide and Department information  
15               policies, principles, standards, and guidelines  
16               with respect to information collection, paper-  
17               work reduction, privacy and security of records,  
18               sharing and dissemination of information, ac-  
19               quisition and use of information technology,  
20               and other information resource management  
21               functions;

22               (iii) the periodic evaluation of and, as  
23               needed, the planning and implementation of im-  
24               provements in the accuracy, completeness, and

1 reliability of data and records contained with  
2 Department information systems; and

3 ~~(iv)~~ the development and annual revision of  
4 a 5-year plan for meeting the Department's in-  
5 formation technology needs; and

6 ~~(C)~~ report to the Secretary as required under  
7 section 3506 of title 44, United States Code.

8 **SEC. 105. DEPUTY ASSISTANT SECRETARIES.**

9 ~~(a)~~ ESTABLISHMENT OF POSITIONS.—There shall be  
10 in the Department such number of Deputy Assistant Sec-  
11 retaries as the Secretary may determine.

12 ~~(b)~~ APPOINTMENTS.—Each Deputy Assistant Sec-  
13 retary—

14 ~~(1)~~ shall be appointed by the Secretary; and

15 ~~(2)~~ shall perform such functions as the Sec-  
16 retary shall prescribe.

17 ~~(c)~~ FUNCTIONS.—Functions assigned to an Assistant  
18 Secretary under section 104(b) may be performed by one  
19 or more Deputy Assistant Secretaries appointed to assist  
20 such Assistant Secretary.

21 **SEC. 106. OFFICE OF THE GENERAL COUNSEL.**

22 There shall be in the Department, the Office of the  
23 General Counsel. There shall be at the head of such office  
24 a General Counsel who shall be appointed by the Presi-  
25 dent, by and with advice and consent of the Senate. The

1 General Counsel shall be the chief legal officer of the De-  
 2 partment and shall provide legal assistance to the Sec-  
 3 retary concerning the programs and policies of the Depart-  
 4 ment.

5 **SEC. 107. OFFICE OF THE INSPECTOR GENERAL.**

6 The Office of Inspector General of the Environmental  
 7 Protection Agency, established in accordance with the In-  
 8 spector General Act of 1978, is hereby redesignated as the  
 9 Office of Inspector General of the Department of the  
 10 Environment.

11 **SEC. 108. BUREAU OF ENVIRONMENTAL STATISTICS.**

12 ~~(a) ESTABLISHMENT.—~~(1) There is established with-  
 13 in the Department a Bureau of Environmental Statistics  
 14 (hereafter referred to as the “Bureau”). The Bureau shall  
 15 be responsible for—

16 ~~(A)~~ compiling, analyzing, and publishing a com-  
 17 prehensive set of environmental quality statistics  
 18 which should provide timely summary in the form of  
 19 industrywide aggregates, multiyear averages, or to-  
 20 tals or some similar form and include information  
 21 on—

22 ~~(i)~~ the nature, source, and amount of pol-  
 23 lutants in the environment; and

24 ~~(ii)~~ the effects on the public and the envi-  
 25 ronment of those pollutants;

1           ~~(B)~~ promulgating guidelines for the collection of  
2           information by the Department required for the sta-  
3           tistics under this paragraph to assure that the infor-  
4           mation is accurate, reliable, relevant, and in a form  
5           that permits systematic analysis;

6           ~~(C)~~ coordinating the collection of information  
7           by the Department for developing such statistics  
8           with related information-gathering activities con-  
9           ducted by other Federal agencies;

10          ~~(D)~~ making readily accessible the statistics pub-  
11          lished under this paragraph; and

12          ~~(E)~~ identifying missing information of the kind  
13          described under subparagraph (A) (i) and (ii), re-  
14          viewing these information needs at least annually  
15          with the Science Advisory Board, and making rec-  
16          ommendations to the appropriate Department of En-  
17          vironment research officials concerning extramural  
18          and intramural research programs to provide such  
19          information.

20          ~~(2)~~ Nothing in the provisions of paragraph (1) shall  
21          authorize the Bureau to require the collection of any data  
22          by any other Department, State or local government, or  
23          to establish observation or monitoring programs.

24          ~~(3)~~ Information compiled by the Bureau of Environ-  
25          mental Statistics, which has been submitted for purposes

1 of statistical reporting requirements of this law, shall not  
2 be disclosed publicly in a manner that would reveal the  
3 identity of the submitter, including submissions by Fed-  
4 eral, State, or local governments, or reveal the identity of  
5 any individual consistent with the provisions of section  
6 552a of title 5, United States Code (the Privacy Act of  
7 1974). This paragraph shall not affect the availability of  
8 data provided to the Department under any other provi-  
9 sion of law administered by the Department. The con-  
10 fidentiality provisions of other statutes authorizing the col-  
11 lection of environmental statistics shall also apply, includ-  
12 ing but not limited to, section 14 of the Toxic Substances  
13 Control Act (15 U.S.C. 2613), section 2(h) of the Federal  
14 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.  
15 136h), section 114(c) of the Clean Air Act (42 U.S.C.  
16 741(c)), and section 1905 of title 18, United States Code.

17 (b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—  
18 The Bureau shall be under the direction of a Director of  
19 Environmental Statistics (hereafter referred to as the “Di-  
20 rector”) who shall be appointed by the President, by and  
21 with the advice and consent of the Senate. The term of  
22 the Director shall be 4 years. The Director shall be a  
23 qualified individual with experience in the compilation and  
24 analysis of environmental statistics. The Director shall re-  
25 port directly to the Secretary. The Director shall be com-

1   pensated at the rate provided for at level V of the Execu-  
2   tive Schedule under section 5316 of title 5, United States  
3   Code.

4       (c) ENVIRONMENTAL STATISTICS ANNUAL RE-  
5   PORT.—On January 1, 1992, and each January 1 there-  
6   after, the Director shall submit to the President an Envi-  
7   ronmental Statistics Annual Report (hereafter referred to  
8   as the “Report”). The Report shall include, but not be  
9   limited to—

10           (1) statistics on environmental quality includ-  
11       ing—

12                (A) The environmental quality of the Na-  
13       tion with respect to all aspects of the environ-  
14       ment, including, but not limited to, the air,  
15       aquatic ecosystems, including marine, estuarine,  
16       and fresh water, and the terrestrial ecosystems,  
17       including, but not limited to, the forest, dry-  
18       land, wetland, range, urban, suburban, and  
19       rural environment; and

20                (B) changes in the natural environment,  
21       including the plant and animal systems, and  
22       other information for a continuing analysis of  
23       these changes or trends and an interpretation  
24       of their underlying causes;

1           (2) statistics on the effects of changes in envi-  
2       ronmental quality on human health and nonhuman  
3       species and ecosystems;

4           (3) documentation of the method used to obtain  
5       and assure the quality of the statistics presented in  
6       the Report;

7           (4) economic information on the current and  
8       projected costs and benefits of environmental protec-  
9       tion; and

10          (5) recommendations on improving environ-  
11       mental statistical information.

12       ~~(d) CONTINUING PERFORMANCE OF THE FUNCTIONS~~  
13 ~~OF THE DIRECTOR PENDING CONFIRMATION.—An indi-~~  
14 ~~vidual who, on the effective date of this Act, is performing~~  
15 ~~any of the functions required by this section to be per-~~  
16 ~~formed by the Director may continue to perform such~~  
17 ~~functions until such functions are assigned to an individ-~~  
18 ~~ual appointed as the Director under this Act.~~

19       ~~(e) ADVISORY COUNCIL ON ENVIRONMENTAL STA-~~  
20 ~~TISTICS.—The Director shall appoint an Advisory Council~~  
21 ~~on Environmental Statistics, comprised of no more than~~  
22 ~~6 private citizens who have expertise in environmental sta-~~  
23 ~~tistics and analysis (except that at least one of such ap-~~  
24 ~~pointees should have expertise in economics) to advise the~~  
25 ~~Director on environmental statistics and analyses, includ-~~



1 ing whether the statistics and analyses disseminated by  
 2 the Bureau are of high quality and are based upon the  
 3 best available objective information. The Council shall be  
 4 subject to the provisions of the Federal Advisory Commit-  
 5 tee Act.

6 ~~(f) BUREAU AUTHORIZATION OF APPROPRIATIONS.—~~

7 There are authorized to be appropriated \$5,400,000 in fis-  
 8 cal year 1993, \$5,400,000 in fiscal year 1994, and such  
 9 sums as necessary in each fiscal year thereafter to carry  
 10 out the provisions of this section.

11 **SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CER-**  
 12 **TAIN ACTIVITIES.**

13 The Secretary may make grants to and enter into  
 14 contracts with State and local governments to assist them  
 15 in meeting the costs of collecting specific data and other  
 16 short-term activities that are related to the responsibilities  
 17 and functions under section 108(a)(1) (A), (B), (C), and  
 18 ~~(D).~~

19 **SEC. 110. STUDY OF DATA NEEDS.**

20 ~~(a) STUDY OF DATA NEEDS.—(1) No later than 1~~  
 21 ~~year after the start of Bureau operations, the Secretary~~  
 22 ~~of the Department of Environment, in consultation with~~  
 23 ~~the Director of the Bureau and the Assistant Secretary~~  
 24 ~~designated as Chief Information Resources Officer, shall~~  
 25 ~~enter into an agreement with the National Academy of~~

1 Sciences for a study, evaluation, and report on the ade-  
2 quacy of the data collection procedures and capabilities of  
3 the Department. No later than 18 months following an  
4 agreement, the National Academy of Sciences shall report  
5 its findings to the Secretary and the Congress. The report  
6 shall include an evaluation of the Department's data col-  
7 lection resources, needs, and requirements, and shall in-  
8 clude an assessment and evaluation of the following sys-  
9 tems, capabilities, and procedures established by the De-  
10 partment to meet those needs and requirements:

11           (A) data collection procedures and capabilities;

12           (B) data analysis procedures and capabilities;

13           (C) the ability of data bases to integrate with  
14       one another;

15           (D) computer hardware and software capabili-  
16       ties;

17           (E) management information systems, including  
18       the ability of management information systems to  
19       integrate with another;

20           (F) Department personnel; and

21           (G) the Department's budgetary needs and re-  
22       sources for data collection, including an assessment  
23       of the adequacy of the budgetary resources provided  
24       to the Department and budgetary resources used

1 by the Department for data collection needs and  
2 purposes.

3 ~~(2)~~ The report shall include recommendations for im-  
4 proving the Department's data collection systems, capa-  
5 bilities, procedures, data collection, and analytical hard-  
6 ware and software, and for improving its management in-  
7 formation systems.

8 ~~(b)~~ AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated such sums as necessary  
10 to carry out the provisions of this section.

11 **SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.**

12 ~~(a)~~ PROHIBITED EMPLOYMENT AND ADVANCEMENT  
13 CONSIDERATIONS.—Except as otherwise provided in this  
14 Act, political affiliation or political qualification may not  
15 be taken into account in connection with the appointment  
16 of any person to any position in the career civil service  
17 or in the assignment or advancement of any career civil  
18 servant in the Department.

19 ~~(b)~~ REPORTS ON IMPLEMENTATION.—One year after  
20 the date of the enactment of this title and again 3 years  
21 after the date of the enactment of this title, the Secretary  
22 shall report to the Senate Committees on Appropriations,  
23 Governmental Affairs, and Environment and Public  
24 Works and to the House of Representatives on the esti-  
25 mated additional cost of implementing this title over the

1 cost as if this title had not been implemented, including  
2 a justification of increased staffing not required in the exe-  
3 cution of this title.

4 **SEC. 112. ADMINISTRATIVE PROVISIONS.**

5       (a) ACCEPTANCE OF MONEY AND PROPERTY.—(1)  
6 The Secretary may accept and retain money, uncompen-  
7 sated services, and other real and personal property or  
8 rights (whether by gift, bequest, devise, or otherwise) for  
9 the purpose of carrying out the Department's programs  
10 and activities, except that the Secretary shall not endorse  
11 any company, product, organization, or service. Gifts, be-  
12 quests, and devises of money and proceeds from sales of  
13 other property received as gifts, bequests, or devises shall  
14 be credited in a separate fund in the Treasury of the Unit-  
15 ed States and shall be available for disbursement upon the  
16 order of the Secretary.

17       (2) The Secretary shall prescribe regulations and  
18 guidelines setting forth the criteria the Department shall  
19 use in determining whether to accept a gift, bequest, or  
20 devise. Such criteria shall take into consideration whether  
21 the acceptance of the property would reflect unfavorably  
22 upon the Department's or any employee's ability to carry  
23 out its responsibilities or official duties in a fair and objec-  
24 tive manner, or would compromise the integrity of or the

1 appearance of the integrity of a Government program or  
 2 any official involved in that program.

3       ~~(b) SEAL OF THE DEPARTMENT.—(1) On the effec-~~  
 4 ~~tive date of this Act, the seal of the Environmental Protec-~~  
 5 ~~tion Agency with appropriate changes shall be the seal of~~  
 6 ~~the Department of the Environment, until such time as~~  
 7 ~~the Secretary may cause a seal of office to be made for~~  
 8 ~~the Department of the Environment of such design as the~~  
 9 ~~Secretary shall approve.~~

10       ~~(2) CRIMINAL PENALTY FOR UNAUTHORIZED USE OF~~  
 11 ~~SEAL.—(A) Chapter 33 of title 18, United States Code,~~  
 12 ~~is amended by adding at the end thereof the following new~~  
 13 ~~section:~~

14 **~~“§ 716. Department of the Environment Seal~~**

15       ~~“(a) Whoever knowingly displays any printed or other~~  
 16 ~~likeness of the official seal of the Department of the Envi-~~  
 17 ~~ronment, or any facsimile thereof, in, or in connection~~  
 18 ~~with, any advertisement, poster, circular, book, pamphlet,~~  
 19 ~~or other publication, public meeting, play, motion picture,~~  
 20 ~~telecast, or other production, or on any building, monu-~~  
 21 ~~ment, or stationery, for the purpose of conveying, or in~~  
 22 ~~a manner reasonably calculated to convey, a false impres-~~  
 23 ~~sion of sponsorship or approval by the Government of the~~  
 24 ~~United States or by any department, agency, or instru-~~

1 mentality thereof, shall be fined not more than \$250 or  
 2 imprisoned not more than 6 months, or both.

3       ~~“(b) Whoever, except as authorized under regulations~~  
 4 ~~promulgated by the Secretary of the Environment and~~  
 5 ~~published in the Federal Register, knowingly manufac-~~  
 6 ~~tures, reproduces, sells, or purchases for resale, either sep-~~  
 7 ~~arately or appended to any article manufactured or sold,~~  
 8 ~~any likeness of the official seal of the Department of the~~  
 9 ~~Environment, or any substantial part thereof, except for~~  
 10 ~~manufacture or sale of the article for the official use of~~  
 11 ~~the Government of the United States, shall be fined not~~  
 12 ~~more than \$250 or imprisoned not more than 6 months,~~  
 13 ~~or both.~~

14       ~~“(c) A violation of subsection (a) or (b) may be en-~~  
 15 ~~joined at the suit of the Attorney General of the United~~  
 16 ~~States upon complaint by any authorized representative~~  
 17 ~~of the Secretary of the Department of the Environment.”.~~

18       ~~(B) The table of sections for chapter 33 of title 18,~~  
 19 ~~United States Code, is amended by adding at the end~~  
 20 ~~thereof:~~

~~“716. Department of the Environment Seal.”.~~

21       ~~(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—~~  
 22 ~~The Secretary is authorized to acquire any of the following~~  
 23 ~~described rights if the property acquired thereby is for use~~  
 24 ~~by or for, or useful to, the Department:~~

- 1           (1) copyrights, patents, and applications for  
 2           patents, designs, processes, and manufacturing data;  
 3           (2) licenses under copyrights, patents, and ap-  
 4           plications for patents; and  
 5           (3) releases, before suit is brought, for past in-  
 6           fringement of patents or copyrights.

7           ~~(d) ADVISORY COMMITTEE STANDARDS OF CONDUCT~~  
 8           ~~AND COMPENSATION.~~—The Secretary may promulgate  
 9           regulations, no less stringent than any other applicable  
 10          provision of law, regarding standards of conduct for mem-  
 11          bers of advisory committees (and consultants to advisory  
 12          committees), including requirements regarding conflicts of  
 13          interest or disclosure of past and present financial and em-  
 14          ployment interests. The Secretary is authorized to pay  
 15          members of advisory committees and others who perform  
 16          services as authorized under section 3109 of title 5, Unit-  
 17          ed States Code, at rates for individuals not to exceed the  
 18          per diem rate equivalent to the rate for level V of the Ex-  
 19          ecutive Schedule under section 5316 of title 5, United  
 20          States Code.

21   **SEC. 113. INHERENTLY GOVERNMENTAL FUNCTIONS.**

22          ~~(a) GOVERNMENT OFFICERS AND EMPLOYEES.~~—(1)  
 23          Inherently governmental functions of the Department  
 24          shall be performed only by officers and employees of the  
 25          United States. For purposes of this section, “inherently

1 governmental” means any activity which is so intimately  
 2 related to the public interest as to mandate performance  
 3 by Government officers and employees. These inherently  
 4 governmental functions include those activities which re-  
 5 quire either the exercise of discretion in applying Govern-  
 6 ment authority or the use of value of judgment in making  
 7 decisions for the Government. These functions shall in-  
 8 clude, but not be limited to, work of a policy, decisionmak-  
 9 ing, or managerial nature which is the direct responsibility  
 10 of Department officials.

11 (b) CONFLICTS OF INTEREST.—(1) The Secretary  
 12 shall by regulation require any person proposing to enter  
 13 into a contract, agreement, or other arrangement, whether  
 14 by competitive bid or negotiation, for the conduct of re-  
 15 search, development, evaluation activities, or for advisory  
 16 and assistance services, to provide the Secretary, prior to  
 17 entering into any such contract, agreement, or arrange-  
 18 ment, with all relevant information, as determined by the  
 19 Secretary, bearing on whether that person has a possible  
 20 conflict of interest with respect to—

21 (A) being able to render impartial, technically  
 22 sound, or objective assistance or advice in light of  
 23 other activities or relationships with other persons;  
 24 or



1           ~~(B)~~ being given an unfair competitive advantage.  
2

3           ~~(2)~~ Such person shall ensure, in accordance with regulations prescribed by the Secretary, compliance with this  
4 section by subcontractors of such person who are engaged  
5 to perform similar services.  
6

7           ~~(c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF~~  
8 ~~INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF~~  
9 ~~CONFLICTS.—(1)~~ Subject to the provisions of paragraph  
10 ~~(2)~~, the Secretary may not enter into any such contract,  
11 agreement, or arrangement, unless he affirmatively finds,  
12 after evaluating all such information and any other relevant  
13 information otherwise available to him, either that—

14           ~~(A)~~ there is little or no likelihood that a conflict  
15 of interest would exist; or

16           ~~(B)~~ that such conflict has been avoided after  
17 appropriate conditions have been included in such  
18 contract, agreement, or arrangement.

19           ~~(2)~~ If the Secretary determines that such conflict of  
20 interest exists and that such conflict of interest cannot be  
21 avoided by including appropriate conditions therein, the  
22 Secretary may enter into such contract, agreement, or arrangement,  
23 if he—

24           ~~(A)~~ determines that it is in the best interests of  
25 the United States to do so; and

1           ~~(B)~~ includes appropriate conditions in such con-  
2       tract, agreement, or arrangement to mitigate such  
3       conflict.

4       ~~(d) PUBLIC NOTICE REGARDING CONFLICTS OF IN-~~  
5 ~~TEREST.~~—The Secretary shall promulgate regulations  
6 which require public notice to be given whenever the Sec-  
7 retary determines that the award of a contract, agreement,  
8 or arrangement may result in a conflict of interest which  
9 cannot be avoided by including appropriate conditions  
10 therein.

11       ~~(e) DISCLAIMER.~~—Nothing in this section shall pre-  
12 clude the Department from promulgating regulations to  
13 monitor potential conflicts after the contract award.

14       ~~(f) RULES.~~—No later than 30 days after the effective  
15 date of this Act, the Secretary shall publish rules for the  
16 implementation of this section.

17       ~~(g) CENTRAL FILE.~~—The Department shall maintain  
18 a central file regarding all cases when a public notice is  
19 issued. Other information required under this section shall  
20 also be compiled. Access to this information shall be con-  
21 trolled to safeguard any proprietary information.

22       ~~(h) DEFINITIONS.~~—For purposes of this section, the  
23 term “advisory and assistance services” includes—

24           ~~(1)~~ management and professional support serv-  
25       ices;

1           ~~(2) the conduct of studies, analyses, and evalua-~~  
 2           ~~tions; and~~

3           ~~(3) engineering and technical services, excluding~~  
 4           ~~routine technical services.~~

5 **SEC. 114. REFERENCES.**

6           Reference in any other Federal law, Executive order,  
 7 rule, regulation, or delegation of authority, or any docu-  
 8 ment of or pertaining—

9           ~~(1) to the Administrator of the Environmental~~  
 10          ~~Protection Agency shall be deemed to refer to the~~  
 11          ~~Secretary of the Environment;~~

12          ~~(2) to the Environmental Protection Agency~~  
 13          ~~shall be deemed to refer to the Department of the~~  
 14          ~~Environment;~~

15          ~~(3) to the Deputy Administrator of the Envi-~~  
 16          ~~ronmental Protection Agency shall be deemed to~~  
 17          ~~refer to the Deputy Secretary of the Environment;~~  
 18          ~~or~~

19          ~~(4) to any Assistant Administrator of the Envi-~~  
 20          ~~ronmental Protection Agency shall be deemed to~~  
 21          ~~refer to an Assistant Secretary of the Department of~~  
 22          ~~the Environment.~~

23 **SEC. 115. SAVINGS PROVISIONS.**

24          ~~(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—~~

25 All orders, determinations, rules, regulations, permits,

1 agreements, grants, contracts, certificates, licenses, reg-  
2 istrations, privileges, and other administrative actions—

3       (1) which have been issued, made, granted, or  
4       allowed to become effective by the President, by the  
5       Administrator of the Environmental Protection  
6       Agency, or by a court of competent jurisdiction, in  
7       the performance of functions of the Administrator or  
8       the Environmental Protection Agency, and

9       (2) which are in effect at the time this Act  
10      takes effect, or were final before the effective date  
11      of this Act and are to become effective on or after  
12      the effective date of this Act,

13 shall continue in effect according to their terms until  
14 modified, terminated, superseded, set aside, or revoked in  
15 accordance with law by the President, the Secretary of the  
16 Environment, or other authorized official, a court of com-  
17 petent jurisdiction, or by operation of law.

18      (b) PROCEEDINGS NOT AFFECTED.—The provisions  
19 of this Act shall not affect any proceedings or any applica-  
20 tion for any license, permit, certificate, or financial assist-  
21 ance pending before the Environmental Protection Agency  
22 at the time this Act takes effect, but such proceedings and  
23 applications shall be continued. Orders shall be issued in  
24 such proceedings, appeals shall be taken therefrom, and  
25 payments shall be made pursuant to such orders, as if this

1 Act had not been enacted, and orders issued in any such  
2 proceedings shall continue in effect until modified, termi-  
3 nated, superseded, or revoked by a duly authorized official,  
4 by a court of competent jurisdiction, or by operation of  
5 law. Nothing in this subsection shall be deemed to prohibit  
6 the discontinuance or modification of any such proceeding  
7 under the same terms and conditions and to the same ex-  
8 tent that such proceeding could have been discontinued  
9 or modified if this Act had not been enacted.

10 (c) SUITS NOT AFFECTED.—The provisions of this  
11 Act shall not affect suits commenced before the date this  
12 Act takes effect, and in all such suits, proceedings shall  
13 be had, appeals taken, and judgments rendered in the  
14 same manner and with the same effect as if this Act had  
15 not been enacted.

16 (d) NONABATEMENT OF ACTIONS.—No suit, action,  
17 or other proceeding commenced by or against the Environ-  
18 mental Protection Agency, or by or against any individual  
19 in the official capacity of such individual as an officer of  
20 the Environmental Protection Agency, shall abate by rea-  
21 son of the enactment of this Act.

22 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-  
23 MULGATION OF REGULATIONS.—Any administrative ac-  
24 tion relating to the preparation or promulgation of a regu-  
25 lation by the Environmental Protection Agency may be

1 continued by the Department with the same effect as if  
2 this Act had not been enacted.

3 ~~(f) PROPERTY AND RESOURCES.—The contracts, li-~~  
4 ~~abilities, records, property, and other assets and interests~~  
5 ~~of the Environmental Protection Agency shall, after the~~  
6 ~~effective date of this Act, be considered to be the con-~~  
7 ~~tracts, liabilities, records, property, and other assets and~~  
8 ~~interests of the Department.~~

9 ~~(g) SAVINGS.—The Department of the Environment~~  
10 ~~and its officers, employees, and agents shall have all the~~  
11 ~~powers and authorities of the Environmental Protection~~  
12 ~~Agency.~~

13 **SEC. 116. CONFORMING AMENDMENTS.**

14 ~~(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1)~~  
15 ~~of title 3, United States Code, is amended by inserting~~  
16 ~~before the period at the end thereof the following: “, Sec-~~  
17 ~~retary of the Environment”.~~

18 ~~(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE~~  
19 ~~LAWS.—Section 101 of title 5, United States Code, is~~  
20 ~~amended by adding at the end thereof the following: “The~~  
21 ~~Department of the Environment”.~~

22 ~~(c) COMPENSATION, LEVEL I.—Section 5312 of title~~  
23 ~~5, United States Code, is amended by adding at the end~~  
24 ~~thereof the following: “Secretary of the Environment”.~~

1       ~~(d) COMPENSATION, LEVEL II.—Section 5313 of title~~  
 2   5, United States Code, is amended by striking out “Ad-  
 3   ministrator of Environmental Protection Agency” and in-  
 4   serting in lieu thereof “Deputy Secretary of the Environ-  
 5   ment”.

6       ~~(e) COMPENSATION, LEVEL IV.—Section 5315 of~~  
 7   title 5, United States Code, is amended—

8           (1) by striking out “Inspector General, Envi-  
 9       ronmental Protection Agency” and inserting in lieu  
 10      thereof “Inspector General, Department of the Envi-  
 11      ronment”; and

12          ~~(2) by striking each reference to an Assistant~~  
 13      Administrator of the Environmental Protection  
 14      Agency and by adding at the end thereof the follow-  
 15      ing: “Assistant Secretaries, Department of the Envi-  
 16      ronment (10). “General Counsel, Department of the  
 17      Environment.”.

18      ~~(f) COMPENSATION, LEVEL V.—Section 5316 of title~~  
 19   5, United States Code, is amended by adding at the end  
 20   thereof the following:

21           “Director of the Bureau of Environmental Sta-  
 22      tistics, Department of the Environment.

23           “Executive Director of the Commission on Im-  
 24      proving Environmental Protection.”.

1       ~~(g) INSPECTOR GENERAL ACT.—The Inspector Gen-~~  
 2       eral Act of 1978 is amended—

3               ~~(1) in section 2(1)—~~

4                       ~~(A) by inserting “the Department of the~~  
 5                       Environment,” after “Veterans Affairs,”; and

6                       ~~(B) by striking out “The Environmental~~  
 7                       Protection Agency,”;

8               ~~(2) in section 11(1) by striking out “or Veter-~~  
 9               ans Affairs” and inserting “Veterans Affairs, or the  
 10              Environment,”; and

11              ~~(3) in section 11(2) by striking out “or Veter-~~  
 12              ans Affairs” and inserting “Veterans Affairs, or the  
 13              Environment,”.

14   **SEC. 117. ADDITIONAL CONFORMING AMENDMENTS.**

15       After consultation with the Committee on Govern-  
 16       mental Affairs and the Committee on Environment and  
 17       Public Works and other appropriate committees of the  
 18       United States Senate and the appropriate committees of  
 19       the House of Representatives, the Secretary of the Envi-  
 20       ronment shall prepare and submit to the Congress pro-  
 21       posed legislation containing technical and conforming  
 22       amendments to the United States Code, and to other pro-  
 23       visions of law, to reflect the changes made by this Act.  
 24       Such legislation shall be submitted not later than 6  
 25       months after the effective date of this Act.



1 **TITLE II—ENVIRONMENTAL**  
 2 **ROLE OF THE UNITED STATES**  
 3 **IN INTERNATIONAL ORGANI-**  
 4 **ZATIONS TO WHICH IT BE-**  
 5 **LONGS**

6 **SEC. 201. INTERNATIONAL ENERGY CONFERENCE.**

7 The Secretary of State, in consultation with the Sec-  
 8 retary of Energy and the Secretary of the Environment,  
 9 and with the advice of the Committee on Earth and Envi-  
 10 ronmental Sciences, is authorized and strongly urged to  
 11 convene an international meeting to be held in the United  
 12 States with invitations to representatives of all countries  
 13 of the world, the purpose of which shall be to encourage  
 14 the exchange of information concerning energy efficiency  
 15 and renewable energy resources that are environmentally  
 16 acceptable and ecologically sustainable.

17 **SEC. 202. INTERNATIONAL GREENHOUSE GAS MONITORING**  
 18 **PROGRAM.**

19 The President, with the advice of the Committee on  
 20 Earth and Environmental Sciences, shall encourage the  
 21 establishment of an office of the United Nations Environ-  
 22 ment Programme (UNEP) and the World Meteorological  
 23 Organization (WMO) to monitor annual estimated genera-  
 24 tion and removal of carbon dioxide and other trace gases  
 25 on a country-by-country basis.

1 **TITLE III—ESTABLISHMENT OF**  
 2 **THE COMMISSION ON IM-**  
 3 **PROVING ENVIRONMENTAL**  
 4 **PROTECTION**

5 **SEC. 301. ESTABLISHMENT; MEMBERSHIP.**

6 (a) ~~ESTABLISHMENT.~~—There is established the Com-  
 7 mission on Improving Environmental Protection (here-  
 8 after referred to as “the Commission”) whose 13 members  
 9 including the Chairman shall be composed of experts in  
 10 governmental organization (with emphasis on environ-  
 11 mental organization); management of organizations and  
 12 environmental regulation and improved environmental  
 13 governmental service delivery, consisting of—

14 (1) seven members to be appointed by the  
 15 President;

16 (2) three members to be appointed by the  
 17 Speaker of the House; and

18 (3) three members to be appointed by the Sen-  
 19 ate Majority Leader.

20 (b) ~~CHAIRMAN.~~—The Chairman of the Commission  
 21 shall be appointed by the President in consultation with  
 22 the Congress.

23 **SEC. 302. COMMISSION RESPONSIBILITIES.**

24 (a) ~~RESPONSIBILITIES.~~—The Commission shall be  
 25 responsible for examining and making recommendations

1 on the management and implementation of the environ-  
2 mental laws and programs within the jurisdiction of the  
3 Department of the Environment in order to enhance the  
4 ability of the Department to preserve and protect human  
5 health and the environment. The Commission shall make  
6 recommendations and otherwise advise the President and  
7 the Congress on the need to—

8           (1) enhance and strengthen the management  
9           and implementation of existing programs within the  
10          Department;

11          (2) enhance the organization of the Department  
12          to eliminate duplication and overlap between dif-  
13          ferent programs;

14          (3) enhance the coordination between different  
15          programs and offices within the Department; and

16          (4) enhance the consistency of policies through-  
17          out the Department.

18          (b) ~~RECOMMENDATIONS.~~—The Commission shall  
19          provide specific steps and proposals for implementing the  
20          Commission's recommendations including an estimate of  
21          the costs of implementing such recommendations, except  
22          that the Commission shall not suggest substantive changes  
23          in the policy expressed by existing laws.

1 **SEC. 303. REPORT TO THE PRESIDENT AND CONGRESS.**

2       The Commission shall report to the President and the  
3 Congress on its investigation, findings, and recommenda-  
4 tions in an interim report no later than 12 months after  
5 the effective date of this title, and in a final report no  
6 later than 24 months after the effective date of this title.  
7 The interim report shall be made available for public re-  
8 view and comment, and the comments taken into account  
9 in finalizing the report.

10 **SEC. 304. COMMISSION STAFF.**

11       The Commission shall appoint an Executive Director  
12 who shall be compensated at a rate not to exceed the rate  
13 of basic pay prescribed for level V of the Executive Sched-  
14 ule under section 5316 of title 5, United States Code.  
15 With the approval of the Commission the Executive Direc-  
16 tor may appoint and fix the compensation of staff suffi-  
17 cient to enable the Commission to carry out its duties.

18 **SEC. 305. ADVISORY GROUPS.**

19       The Chairman shall convene at least one advisory  
20 group to assist the Commission in developing its rec-  
21 ommendations. One advisory group shall be composed of  
22 past staff of the Department of the Environment and its  
23 predecessor Environmental Protection Agency, other Fed-  
24 eral and State officials experienced in administering envi-  
25 ronmental protection programs, members of the regulated  
26 community and members of public interest groups orga-

nized to further the goals of environmental protection. The Executive Director is authorized to pay members of advisory committees and others who perform services as authorized under section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code. The advisory group shall be subject to the provisions of the Federal Advisory Committee Act.

**SEC. 306. FUNDING; AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$5,000,000 in fiscal year 1993 and \$5,000,000 in fiscal year 1994 to carry out the provisions of this title.

**TITLE IV—EFFECTIVE DATE**

**SEC. 401. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect 6 months after the date of the enactment of this Act.

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) *SHORT TITLE.*—This Act may be cited as the “Department of the Environment Act of 1993”.

1       (b) *TABLE OF CONTENTS.*—*The table of contents is as*  
 2 *follows:*

*Sec. 1. Short title and table of contents.*

*TITLE I—ELEVATION OF THE ENVIRONMENTAL PROTECTION  
AGENCY TO CABINET LEVEL*

*Sec. 101. Short title.*

*Sec. 102. Findings.*

*Sec. 103. Establishment of the Department of the Environment.*

*Sec. 104. Assistant Secretaries.*

*Sec. 105. Deputy Assistant Secretaries.*

*Sec. 106. Office of the General Counsel.*

*Sec. 107. Office of the Inspector General.*

*Sec. 108. Bureau of Environmental Statistics.*

*Sec. 109. Grant and contract authority for certain activities.*

*Sec. 110. Study of data needs.*

*Sec. 111. Miscellaneous employment restrictions.*

*Sec. 112. Termination of the Council on Environmental Quality and transfer of  
functions.*

*Sec. 113. Administrative provisions.*

*Sec. 114. Inherently governmental functions.*

*Sec. 115. References.*

*Sec. 116. Savings provisions.*

*Sec. 117. Conforming amendments.*

*Sec. 118. Additional conforming amendments.*

*TITLE II—ESTABLISHMENT OF THE COMMISSION ON IMPROVING  
ENVIRONMENTAL PROTECTION*

*Sec. 201. Establishment; membership.*

*Sec. 202. Commission responsibilities.*

*Sec. 203. Report to the President and Congress.*

*Sec. 204. Commission staff.*

*Sec. 205. Advisory groups.*

*Sec. 206. Termination of Commission.*

*Sec. 207. Funding; authorization of appropriations.*

*TITLE III—EFFECTIVE DATE*

*Sec. 301. Effective date.*

3   ***TITLE I—ELEVATION OF THE EN-***  
 4       ***VIROMENTAL   PROTECTION***  
 5       ***AGENCY TO CABINET LEVEL***

6   ***SEC. 101. SHORT TITLE.***

7       *This title may be cited as the “Department of the*  
 8 *Environment Act”.*

1 **SEC. 102. FINDINGS.**

2 *The Congress finds that—*

3 *(1) recent concern with Federal environmental*  
4 *policy has highlighted the necessity of assigning to*  
5 *protection of the domestic and international environ-*  
6 *ment a priority which is at least equal to that as-*  
7 *signed to other functions of the Federal Government;*

8 *(2) protection of the environment increasingly*  
9 *involves cooperation with foreign states, including the*  
10 *most highly industrialized states all of whose top en-*  
11 *vironmental officials have ministerial status;*

12 *(3) the size of the budget and the number of Fed-*  
13 *eral civil servants devoted to tasks associated with en-*  
14 *vironmental protection at the Environmental Protec-*  
15 *tion Agency is commensurate with departmental sta-*  
16 *tus; and*

17 *(4) a cabinet-level Department of the Environ-*  
18 *ment should be established.*

19 **SEC. 103. ESTABLISHMENT OF THE DEPARTMENT OF THE**  
20 **ENVIRONMENT.**

21 *(a) REDESIGNATION.—The Environmental Protection*  
22 *Agency is hereby redesignated as the Department of the En-*  
23 *vironment (hereafter referred to as the “Department”) and*  
24 *shall be an executive department in the executive branch*  
25 *of the Government. The official acronym of the Department*  
26 *shall be the “U.S.D.E.”.*

1       (b) *SECRETARY OF THE ENVIRONMENT.*—(1) *There*  
2 *shall be at the head of the Department a Secretary of the*  
3 *Environment who shall be appointed by the President, by*  
4 *and with the advice and consent of the Senate. The Depart-*  
5 *ment shall be administered under the supervision and direc-*  
6 *tion of the Secretary.*

7       (2) *The Secretary may not assign duties for or delegate*  
8 *authority for the supervision of the Assistant Secretaries,*  
9 *the General Counsel, the Director of Environmental Statis-*  
10 *tics, or the Inspector General of the Department to any offi-*  
11 *cer of the Department other than the Deputy Secretary.*

12       (3) *Except as described under paragraph (2) of this*  
13 *section and section 104(b)(2), and notwithstanding any*  
14 *other provision of law, the Secretary may delegate any*  
15 *functions including the making of regulations to such offi-*  
16 *cers and employees of the Department as the Secretary may*  
17 *designate, and may authorize such successive redelegations*  
18 *of such functions within the Department as determined to*  
19 *be necessary or appropriate.*

20       (c) *DEPUTY SECRETARY.*—*There shall be in the De-*  
21 *partment a Deputy Secretary of the Environment, who*  
22 *shall be appointed by the President, by and with the advice*  
23 *and consent of the Senate. The Deputy Secretary shall per-*  
24 *form such responsibilities as the Secretary shall prescribe*  
25 *and shall act as the Secretary during the absence or disabil-*



1 *ity of the Secretary or in the event of a vacancy in the*  
 2 *position of Secretary.*

3       (d) *OFFICE OF THE SECRETARY.*—*The Office of the*  
 4 *Secretary shall consist of a Secretary and a Deputy Sec-*  
 5 *retary and may include an Executive Secretary and such*  
 6 *other executive officers as the Secretary may determine nec-*  
 7 *essary.*

8       (e) *REGIONAL OFFICES.*—*The Secretary is authorized*  
 9 *to establish, alter, discontinue, or maintain such regional*  
 10 *or other field offices as he may determine necessary to carry*  
 11 *out the functions vested in him or other officials of the*  
 12 *Department.*

13       (f) *INTERNATIONAL RESPONSIBILITIES OF THE SEC-*  
 14 *RETARY.*—(1) *In addition to exercising other international*  
 15 *responsibilities under existing provisions of law, the*  
 16 *Secretary is—*

17               (A) *encouraged to assist the Secretary of State to*  
 18 *carry out his primary responsibilities for coordinat-*  
 19 *ing, negotiating, implementing and participating in*  
 20 *international agreements, including participation in*  
 21 *international organizations, relevant to environ-*  
 22 *mental protection; and*

23               (B) *authorized and encouraged to—*

24                       (i) *conduct research on and apply existing*  
 25 *research capabilities to the nature and impacts*

1           *of international environmental problems and de-*  
2           *velop responses to such problems; and*

3           (ii) *provide technical and other assistance*  
4           *to foreign countries and international bodies to*  
5           *improve the quality of the environment.*

6           (2) *The Secretary of State shall consult with the Sec-*  
7           *retary of the Environment and such other persons as he*  
8           *determines appropriate on such negotiations, implementa-*  
9           *tions, and participations described under paragraph*  
10          (1)(A).

11          (g) *AUTHORITY OF THE SECRETARY WITHIN THE DE-*  
12          *PARTMENT.—Except as provided under section 112, nothing*  
13          *in the provisions of this Act—*

14               (1) *authorizes the Secretary of the Environment*  
15               *to require any action by any officer of any executive*  
16               *department or agency other than officers of the De-*  
17               *partment of the Environment, except that this para-*  
18               *graph shall not affect any authority provided for by*  
19               *any other provision of law authorizing the Secretary*  
20               *of the Environment to require any such actions;*

21               (2) *modifies any Federal law that is adminis-*  
22               *tered by any executive department or agency; or*

23               (3) *transfers to the Department of the Environ-*  
24               *ment any authority exercised by any other Federal*  
25               *executive department or agency prior to the date of*

1        *the enactment of this Act, except the authority exer-*  
 2        *cised by the Environmental Protection Agency.*

3        *(h) APPLICATION TO THE DEPARTMENT OF THE ENVI-*  
 4        *RONMENT.—The provisions of this Act apply only to activi-*  
 5        *ties of the Department of the Environment, except where*  
 6        *expressly provided otherwise.*

7        **SEC. 104. ASSISTANT SECRETARIES.**

8        *(a) ESTABLISHMENT OF POSITIONS.—There shall be in*  
 9        *the Department such number of Assistant Secretaries, not*  
 10       *to exceed 12, as the Secretary shall determine, each of whom*  
 11       *shall be appointed by the President, by and with the advice*  
 12       *and consent of the Senate.*

13       *(b) RESPONSIBILITIES OF ASSISTANT SECRETAR-*  
 14       *IES.—(1) The Secretary shall assign to Assistant Secretar-*  
 15       *ies such responsibilities as the Secretary considers appro-*  
 16       *priate, including, but not limited to—*

- 17                *(A) enforcement;*
- 18                *(B) compliance monitoring;*
- 19                *(C) research and development;*
- 20                *(D) air;*
- 21                *(E) radiation;*
- 22                *(F) water;*
- 23                *(G) pesticides;*
- 24                *(H) toxic substances;*
- 25                *(I) solid waste;*

- 1           (J) hazardous waste;  
 2           (K) hazardous waste cleanup;  
 3           (L) emergency response;  
 4           (M) international affairs;  
 5           (N) policy, planning, and evaluation;  
 6           (O) pollution prevention;  
 7           (P) congressional affairs;  
 8           (Q) intergovernmental affairs;  
 9           (R) public affairs; and  
 10          (S) administration and resources management,  
 11          information resources management, procurement and  
 12          assistance management, and personnel and labor rela-  
 13          tions.
- 14          (2) *The Secretary may assign and modify any respon-*  
 15          *sibilities at his discretion under paragraph (1), except that*  
 16          *the Secretary may not modify the responsibilities of any*  
 17          *Assistant Secretary without prior written notification with*  
 18          *explanation of such modification to the appropriate com-*  
 19          *mittees of the Senate and the House of Representatives.*
- 20          (c) *DESIGNATION OF RESPONSIBILITIES PRIOR TO*  
 21          *CONFIRMATION.—Whenever the President submits the name*  
 22          *of an individual to the Senate for confirmation as Assistant*  
 23          *Secretary under this section, the President shall state the*  
 24          *particular responsibilities of the Department such individ-*  
 25          *ual shall exercise upon taking office.*

1       (d) *CONTINUING PERFORMANCE OF FUNCTIONS.*—On  
2   the effective date of this Act, the Administrator and Deputy  
3   Administrator of the Environmental Protection Agency  
4   shall be redesignated as the Secretary and Deputy Secretary  
5   of the Department of the Environment, Assistant Adminis-  
6   trators of the Agency shall be redesignated as Assistant Sec-  
7   retaries of the Department, the General Counsel and the In-  
8   specter General of the Agency shall be redesignated as the  
9   General Counsel and the Inspector General of the Depart-  
10   ment, and the Chief Financial Officer of the Agency shall  
11   be redesignated as the Chief Financial Officer of the Depart-  
12   ment, without renomination or reconfirmation.

13       (e) *CHIEF INFORMATION RESOURCES OFFICER.*—(1)  
14   The Secretary shall designate the Assistant Secretary whose  
15   responsibilities include information resource management  
16   functions as required by section 3506 of title 44, United  
17   States Code, as the Chief Information Resources Officer of  
18   the Department.

19       (2) *The Chief Information Resources Officer shall—*

20           (A) *advise the Secretary on information resource*  
21       *management activities of the Department as required*  
22       *by section 3506 of title 44, United States Code;*

23           (B) *develop and maintain an information re-*  
24       *sources management system for the Department which*  
25       *provides for—*

1           (i) the conduct of and accountability for  
2           any acquisitions made pursuant to a delegation  
3           of authority under section 111 of the Federal  
4           Property and Administrative Services Act of  
5           1949 (40 U.S.C. 759);

6           (ii) the implementation of all applicable  
7           government-wide and Department information  
8           policies, principles, standards, and guidelines  
9           with respect to information collection, paperwork  
10          reduction, privacy and security of records, shar-  
11          ing and dissemination of information, acquisi-  
12          tion and use of information technology, and  
13          other information resource management func-  
14          tions;

15          (iii) the periodic evaluation of and, as need-  
16          ed, the planning and implementation of im-  
17          provements in the accuracy, completeness, and  
18          reliability of data and records contained with  
19          Department information systems; and

20          (iv) the development and annual revision of  
21          a 5-year plan for meeting the Department's in-  
22          formation technology needs; and

23          (C) report to the Secretary as required under sec-  
24          tion 3506 of title 44, United States Code.

1 **SEC. 105. DEPUTY ASSISTANT SECRETARIES.**

2 (a) *ESTABLISHMENT OF POSITIONS.*—There shall be in  
3 the Department such number of Deputy Assistant Secretar-  
4 ies as the Secretary may determine.

5 (b) *APPOINTMENTS.*—Each Deputy Assistant Sec-  
6 retary—

7 (1) shall be appointed by the Secretary; and

8 (2) shall perform such functions as the Secretary  
9 shall prescribe.

10 (c) *FUNCTIONS.*—Functions assigned to an Assistant  
11 Secretary under section 104(b) may be performed by one  
12 or more Deputy Assistant Secretaries appointed to assist  
13 such Assistant Secretary.

14 **SEC. 106. OFFICE OF THE GENERAL COUNSEL.**

15 There shall be in the Department the Office of the Gen-  
16 eral Counsel. There shall be at the head of such office a Gen-  
17 eral Counsel who shall be appointed by the President, by  
18 and with the advice and consent of the Senate. The General  
19 Counsel shall be the chief legal officer of the Department  
20 and shall provide legal assistance to the Secretary concern-  
21 ing the programs and policies of the Department.

22 **SEC. 107. OFFICE OF THE INSPECTOR GENERAL.**

23 The Office of Inspector General of the Environmental  
24 Protection Agency, established in accordance with the In-  
25 spector General Act of 1978, is hereby redesignated as the

1 *Office of Inspector General of the Department of the*  
2 *Environment.*

3 ***SEC. 108. BUREAU OF ENVIRONMENTAL STATISTICS.***

4 *(a) ESTABLISHMENT.—(1) There is established within*  
5 *the Department a Bureau of Environmental Statistics*  
6 *(hereafter referred to as the “Bureau”). The Bureau shall*  
7 *be responsible for—*

8 *(A) compiling, analyzing, and publishing a com-*  
9 *prehensive set of environmental quality statistics*  
10 *which should provide timely summary in the form of*  
11 *industrywide aggregates, multiyear averages, or totals*  
12 *or some similar form and include information on—*

13 *(i) the nature, source, and amount of pol-*  
14 *lutants in the environment; and*

15 *(ii) the effects on the public and the envi-*  
16 *ronment of those pollutants;*

17 *(B) promulgating guidelines for the collection of*  
18 *information by the Department required for the sta-*  
19 *tistics under this paragraph to assure that the infor-*  
20 *mation is accurate, reliable, relevant, and in a form*  
21 *that permits systematic analysis;*

22 *(C) coordinating the collection of information by*  
23 *the Department for developing such statistics with re-*  
24 *lated information-gathering activities conducted by*  
25 *other Federal agencies;*



1           (D) making readily accessible the statistics pub-  
2           lished under this paragraph; and

3           (E) identifying missing information of the kind  
4           described under subparagraph (A) (i) and (ii), re-  
5           viewing these information needs at least annually  
6           with the Science Advisory Board, and making rec-  
7           ommendations to the appropriate Department of En-  
8           vironment officials concerning extramural and intra-  
9           mural research programs to provide such information.

10          (2) Nothing in the provisions of paragraph (1) shall  
11          authorize the Bureau to require the collection of any data  
12          by any other Department, State or local government, or to  
13          establish observation or monitoring programs. The Bureau  
14          shall not duplicate the information collection functions of  
15          other Federal agencies.

16          (3) Information compiled by the Bureau of Environ-  
17          mental Statistics, which has been submitted for purposes  
18          of statistical reporting requirements of this law, shall not  
19          be disclosed publicly in a manner that would reveal the  
20          identity of the submitter, including submissions by Federal,  
21          State, or local governments, or reveal the identity of any  
22          individual consistent with the provisions of section 552a of  
23          title 5, United States Code (the Privacy Act of 1974). This  
24          paragraph shall not affect the availability of data provided  
25          to the Department under any other provision of law admin-

1 istered by the Department. The confidentiality provisions  
 2 of other statutes authorizing the collection of environmental  
 3 statistics shall also apply, including but not limited to, sec-  
 4 tion 14 of the Toxic Substances Control Act (15 U.S.C.  
 5 2613), section 2(h) of the Federal Insecticide, Fungicide,  
 6 and Rodenticide Act (7 U.S.C. 136h), section 114(c) of the  
 7 Clean Air Act (42 U.S.C. 741(c)), and section 1905 of title  
 8 18, United States Code.

9 (b) *DIRECTOR OF ENVIRONMENTAL STATISTICS.*—The  
 10 Bureau shall be under the direction of a Director of Envi-  
 11 ronmental Statistics (hereafter referred to as the “Direc-  
 12 tor”) who shall be appointed by the President, by and with  
 13 the advice and consent of the Senate. The term of the Direc-  
 14 tor shall be 4 years. The Director shall be a qualified indi-  
 15 vidual with experience in the compilation and analysis of  
 16 environmental statistics. The Director shall report directly  
 17 to the Secretary. The Director shall be compensated at the  
 18 rate provided for at level V of the Executive Schedule under  
 19 section 5316 of title 5, United States Code.

20 (c) *ENVIRONMENTAL STATISTICS ANNUAL REPORT.*—  
 21 On July 1, 1995, and each July 1 thereafter, the Director  
 22 shall submit to the President an Environmental Statistics  
 23 Annual Report (hereafter referred to as the “Report”). The  
 24 Report shall include, but not be limited to—

1           (1) *statistics on environmental quality includ-*  
2 *ing—*

3                   (A) *The environmental quality of the Na-*  
4 *tion with respect to all aspects of the environ-*  
5 *ment, including, but not limited to, the air,*  
6 *aquatic ecosystems, including marine, estuarine,*  
7 *and fresh water, and the terrestrial ecosystems,*  
8 *including, but not limited to, the forest, dry-*  
9 *land, wetland, range, urban, suburban, and*  
10 *rural environment; and*

11                   (B) *changes in the natural environment, in-*  
12 *cluding the plant and animal systems, and other*  
13 *information for a continuing analysis of these*  
14 *changes or trends and an interpretation of their*  
15 *underlying causes;*

16           (2) *statistics on the effects of changes in environ-*  
17 *mental quality on human health and nonhuman spe-*  
18 *cies and ecosystems;*

19           (3) *documentation of the method used to obtain*  
20 *and assure the quality of the statistics presented in*  
21 *the Report;*

22           (4) *economic information on the current and*  
23 *projected costs and benefits of environmental protec-*  
24 *tion; and*

1           (5) *recommendations on improving environ-*  
 2           *mental statistical information.*

3           (d) *CONTINUING PERFORMANCE OF THE FUNCTIONS*  
 4           *OF THE DIRECTOR PENDING CONFIRMATION.—An individ-*  
 5           *ual who, on the effective date of this Act, is performing any*  
 6           *of the functions required by this section to be performed by*  
 7           *the Director may continue to perform such functions until*  
 8           *such functions are assigned to an individual appointed as*  
 9           *the Director under this Act.*

10          (e) *ADVISORY COUNCIL ON ENVIRONMENTAL STATIS-*  
 11          *TICS.—The Director shall appoint an Advisory Council on*  
 12          *Environmental Statistics, comprised of no more than 6 pri-*  
 13          *vate citizens who have expertise in environmental statistics*  
 14          *and analysis (except that at least one of such appointees*  
 15          *should have expertise in economics) to advise the Director*  
 16          *on environmental statistics and analyses, including whether*  
 17          *the statistics and analyses disseminated by the Bureau are*  
 18          *of high quality and are based upon the best available objec-*  
 19          *tive information. The Council shall be subject to the provi-*  
 20          *sions of the Federal Advisory Committee Act.*

21       **SEC. 109. GRANT AND CONTRACT AUTHORITY FOR CERTAIN**  
 22               **ACTIVITIES.**

23           *The Secretary may make grants to and enter into con-*  
 24           *tracts with State and local governments, Indian tribes, uni-*  
 25           *versities, and other organizations to assist them in meeting*

1 *the costs of collecting specific data and other short term ac-*  
2 *tivities that are related to the responsibilities and functions*  
3 *under section 108(a)(1) (A), (B), (C), and (D).*

4 ***SEC. 110. STUDY OF DATA NEEDS.***

5 *(a) STUDY OF DATA NEEDS.—(1) No later than 1 year*  
6 *after the start of Bureau operations, the Secretary of the*  
7 *Department of Environment, in consultation with the Di-*  
8 *rector of the Bureau and the Assistant Secretary designated*  
9 *as Chief Information Resources Officer, shall enter into an*  
10 *agreement with the National Academy of Sciences for a*  
11 *study, evaluation, and report on the adequacy of the data*  
12 *collection procedures and capabilities of the Department. No*  
13 *later than 18 months following an agreement, the National*  
14 *Academy of Sciences shall report its findings to the Sec-*  
15 *retary and the Congress. The report shall include an evalua-*  
16 *tion of the Department's data collection resources, needs,*  
17 *and requirements, and shall include an assessment and*  
18 *evaluation of the following systems, capabilities, and proce-*  
19 *dures established by the Department to meet those needs and*  
20 *requirements:*

- 21 *(A) data collection procedures and capabilities;*  
22 *(B) data analysis procedures and capabilities;*  
23 *(C) the ability of data bases to integrate with*  
24 *one another;*

1           (D) computer hardware and software capabili-  
2       ties;

3           (E) management information systems, including  
4       the ability of management information systems to in-  
5       tegrate with another;

6           (F) Department personnel; and

7           (G) the Department's budgetary needs and re-  
8       sources for data collection, including an assessment of  
9       the adequacy of the budgetary resources provided to  
10      the Department and budgetary resources used by  
11      the Department for data collection needs and  
12      purposes.

13       (2) The report shall include recommendations for im-  
14      proving the Department's data collection systems, capabili-  
15      ties, procedures, data collection, and analytical hardware  
16      and software, and for improving its management informa-  
17      tion systems.

18       (b) AUTHORIZATION OF APPROPRIATIONS.—There are  
19      authorized to be appropriated such sums as necessary to  
20      carry out the provisions of this section.

21   **SEC. 111. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.**

22       (a) PROHIBITED EMPLOYMENT AND ADVANCEMENT  
23      CONSIDERATIONS.—Except as otherwise provided in this  
24      Act, political affiliation or political qualification may not  
25      be taken into account in connection with the appointment

1 of any person to any position in the career civil service  
 2 or in the assignment or advancement of any career civil  
 3 servant in the Department.

4 (b) *REPORTS ON IMPLEMENTATION.*—One year after  
 5 the date of the enactment of this title and again 3 years  
 6 after the date of the enactment of this title, the Secretary  
 7 shall report to the Senate Committees on Appropriations,  
 8 Governmental Affairs, and Environment and Public Works  
 9 and to the House of Representatives on the estimated addi-  
 10 tional cost of implementing this title over the cost as if this  
 11 title had not been implemented, including a justification  
 12 of increased staffing not required in the execution of this  
 13 title.

14 **SEC. 112. TERMINATION OF THE COUNCIL ON ENVIRON-**  
 15 **MENTAL QUALITY AND TRANSFER OF FUNC-**  
 16 **TIONS.**

17 (a) *TRANSFER OF FUNCTIONS OF THE COUNCIL ON*  
 18 *ENVIRONMENTAL QUALITY.*—(1) Except as provided under  
 19 paragraph (2), all functions of the Council on Environ-  
 20 mental Quality under titles I and II of the National Envi-  
 21 ronmental Policy Act (42 U.S.C. 4321 et seq.) and under  
 22 any other law, are transferred to the Secretary. The Sec-  
 23 retary is authorized to take all necessary action, including  
 24 the promulgation of regulations, to carry out these func-  
 25 tions.

1       (2) *Referrals of interagency disagreements concerning*  
 2 *proposed major Federal actions significantly affecting the*  
 3 *quality of the human environment under section 102(2)(C)*  
 4 *of the National Environmental Policy Act (42 U.S.C.*  
 5 *102(2)(C)) and concerning matters under section 309(b) of*  
 6 *the Clean Air Act (42 U.S.C. 7609(b)) shall be made to the*  
 7 *President for resolution.*

8       (b) *TERMINATION OF THE COUNCIL ON ENVIRON-*  
 9 *MENTAL QUALITY.—(1) Section 204 of the National Envi-*  
 10 *ronmental Policy Act (42 U.S.C. 4344) is amended by strik-*  
 11 *ing out “Council” and inserting in lieu thereof “Secretary*  
 12 *of the Environment”.*

13       (2) *Sections 202, 203, 205, 206, 207, and 208 of the*  
 14 *National Environmental Policy Act (42 U.S.C. 4342, 4343,*  
 15 *4345, 4346, 4346a, and 4346b) are repealed.*

16       (3) *The heading for title II of the National Environ-*  
 17 *mental Policy Act is amended to read as follows:*

18                                   “TITLE II  
 19                                   “ENVIRONMENTAL QUALITY REPORT”.

20       (c) *REFERENCES IN FEDERAL LAW.—Reference in any*  
 21 *other Federal law, Executive order, rule, regulation, or dele-*  
 22 *gation of authority, or any document of or relating to the*  
 23 *Council on Environmental Quality—*



1           (1) with regard to functions transferred under  
2           subsection (a)(1), shall be deemed to refer to the Sec-  
3           retary; and

4           (2) with regard to disagreements and matters de-  
5           scribed under subsection (a)(2), shall be deemed to  
6           refer to the President.

7           (d) *AVAILABILITY OF FUNDS.*—Unobligated funds  
8           available to the Council on Environmental Quality shall  
9           remain available to the Department until expended for the  
10          gradual and orderly termination of the Council and trans-  
11          fer of Council functions as provided in this Act.

12          (e) *SAVINGS PROVISIONS.*—(1) All orders, determina-  
13          tions, rules, regulations, permits, agreements, grants, con-  
14          tracts, certificates, licenses, registrations, privileges, and  
15          other administrative actions—

16                (A) which have been issued, made, granted, or  
17                allowed to become effective by the President, by the  
18                Council on Environmental Quality, or by a court of  
19                competent jurisdiction, in the performance of func-  
20                tions of the Council on Environmental Quality, and

21                (B) which are in effect at the time this Act takes  
22                effect, or were final before the effective date of this Act  
23                and are to become effective on or after the effective  
24                date of this Act,

1 *shall continue in effect according to their terms until modi-*  
2 *fied, terminated, superseded, set aside, or revoked in accord-*  
3 *ance with law by the President, the Secretary of the Envi-*  
4 *ronment, or other authorized official, a court of competent*  
5 *jurisdiction, or by operation of law.*

6       (2) *The provisions of this Act shall not affect any pro-*  
7 *ceedings or any application for any license, permit, certifi-*  
8 *cate, or financial assistance pending before the Council on*  
9 *Environmental Quality at the time this Act takes effect, but*  
10 *such proceedings and applications shall be continued. Or-*  
11 *ders shall be issued in such proceedings, appeals shall be*  
12 *taken therefrom, and payments shall be made pursuant to*  
13 *such orders, as if this Act had not been enacted, and orders*  
14 *issued in any such proceedings shall continue in effect until*  
15 *modified, terminated, superseded, or revoked by a duly au-*  
16 *thorized official, by a court of competent jurisdiction, or*  
17 *by operation of law. Nothing in this paragraph shall be*  
18 *deemed to prohibit the discontinuance or modification of*  
19 *any such proceeding under the same terms and conditions*  
20 *and to the same extent that such proceeding could have been*  
21 *discontinued or modified if this Act had not been enacted.*

22       (3) *The provisions of this section shall not affect suits*  
23 *commenced before the date this Act takes effect, and in all*  
24 *such suits, proceedings shall be had, appeals taken, and*

1 *judgments rendered in the same manner and with the same*  
 2 *effect as if this Act had not been enacted.*

3       (4) *No suit, action, or other proceeding commenced by*  
 4 *or against the Council on Environmental Quality, or by*  
 5 *or against any individual in the official capacity of such*  
 6 *individual as an officer of the Council on Environmental*  
 7 *Quality, shall abate by reason of the enactment of this Act.*

8       (5) *Any administrative action relating to the prepara-*  
 9 *tion or promulgation of a regulation by the Council on En-*  
 10 *vironmental Quality may be continued by the Department*  
 11 *or the President with the same effect as if this Act had not*  
 12 *been enacted.*

13       (6) *The contracts, liabilities, records, property, and*  
 14 *other assets and interests of the Council on Environmental*  
 15 *Quality shall, after the effective date of this Act, be consid-*  
 16 *ered to be the contracts, liabilities, records, property, and*  
 17 *other assets and interests of the Department.*

18 **SEC. 113. ADMINISTRATIVE PROVISIONS.**

19       (a) *ACCEPTANCE OF MONEY AND PROPERTY.—(1) The*  
 20 *Secretary may accept and retain money, uncompensated*  
 21 *services, and other real and personal property or rights*  
 22 *(whether by gift, bequest, devise, or otherwise) for the pur-*  
 23 *pose of carrying out the Department's programs and activi-*  
 24 *ties, except that the Secretary shall not endorse any com-*  
 25 *pany, product, organization, or service. Gifts, bequests, and*

1 *devises of money and proceeds from sales of other property*  
2 *received as gifts, bequests, or devises shall be credited in a*  
3 *separate fund in the Treasury of the United States and*  
4 *shall be available for disbursement upon the order of the*  
5 *Secretary.*

6       (2) *The Secretary shall prescribe regulations and*  
7 *guidelines setting forth the criteria the Department shall*  
8 *use in determining whether to accept a gift, bequest, or de-*  
9 *vise. Such criteria shall take into consideration whether the*  
10 *acceptance of the property would reflect unfavorably upon*  
11 *the Department's or any employee's ability to carry out its*  
12 *responsibilities or official duties in a fair and objective*  
13 *manner, or would compromise the integrity of or the ap-*  
14 *pearance of the integrity of a Government program or any*  
15 *official involved in that program.*

16       (b) *SEAL OF THE DEPARTMENT.*—(1) *On the effective*  
17 *date of this Act, the seal of the Environmental Protection*  
18 *Agency with appropriate changes shall be the seal of the*  
19 *Department of the Environment, until such time as the Sec-*  
20 *retary may cause a seal of office to be made for the Depart-*  
21 *ment of the Environment of such design as the Secretary*  
22 *shall approve.*

23       (2)(A) *Chapter 33 of title 18, United States Code, is*  
24 *amended by adding at the end thereof the following new*  
25 *section:*

1   **“§ 716. Department of the Environment Seal**

2       “(a) Whoever knowingly displays any printed or other  
3 likeness of the official seal of the Department of the Envi-  
4 ronment, or any facsimile thereof, in, or in connection with,  
5 any advertisement, poster, circular, book, pamphlet, or  
6 other publication, public meeting, play, motion picture,  
7 telecast, or other production, or on any building, monu-  
8 ment, or stationery, for the purpose of conveying, or in a  
9 manner reasonably calculated to convey, a false impression  
10 of sponsorship or approval by the Government of the United  
11 States or by any department, agency, or instrumentality  
12 thereof, shall be fined not more than \$250 or imprisoned  
13 not more than 6 months, or both.

14       “(b) Whoever, except as authorized under regulations  
15 promulgated by the Secretary of the Environment and pub-  
16 lished in the Federal Register, knowingly manufactures, re-  
17 produces, sells, or purchases for resale, either separately or  
18 appended to any article manufactured or sold, any likeness  
19 of the official seal of the Department of the Environment,  
20 or any substantial part thereof, except for manufacture or  
21 sale of the article for the official use of the Government of  
22 the United States, shall be fined not more than \$250 or  
23 imprisoned not more than 6 months, or both.

24       “(c) A violation of subsection (a) or (b) may be en-  
25 joined at the suit of the Attorney General of the United

1 *States upon complaint by any authorized representative of*  
 2 *the Secretary of the Department of the Environment.”.*

3 *(B) The table of sections for chapter 33 of title 18,*  
 4 *United States Code, is amended by adding at the end there-*  
 5 *of:*

*“716. Department of the Environment Seal.”.*

6 *(c) ACQUISITION OF COPYRIGHTS AND PATENTS.—The*  
 7 *Secretary is authorized to acquire any of the following de-*  
 8 *scribed rights if the property acquired thereby is for use*  
 9 *by or for, or useful to, the Department:*

10 *(1) copyrights, patents, and applications for pat-*  
 11 *ents, designs, processes, and manufacturing data;*

12 *(2) licenses under copyrights, patents, and appli-*  
 13 *cations for patents; and*

14 *(3) releases, before suit is brought, for past in-*  
 15 *fringement of patents or copyrights.*

16 *(d) ADVISORY COMMITTEE COMPENSATION.—The Sec-*  
 17 *retary is authorized to pay members of advisory committees*  
 18 *and others who perform services as authorized under section*  
 19 *3109 of title 5, United States Code, at rates for individuals*  
 20 *not to exceed the per diem rate equivalent to the rate for*  
 21 *level V of the Executive Schedule under section 5316 of title*  
 22 *5, United States Code.*

23 **SEC. 114. INHERENTLY GOVERNMENTAL FUNCTIONS.**

24 *(a) GOVERNMENT OFFICERS AND EMPLOYEES.—(1)*  
 25 *Inherently governmental functions of the Department shall*

1 *be performed only by officers and employees of the United*  
2 *States. For purposes of this section, the term “inherently*  
3 *governmental function” means any activity which is so in-*  
4 *timately related to the public interest as to mandate per-*  
5 *formance by Government officers and employees. Inherently*  
6 *governmental functions include those activities which re-*  
7 *quire either the exercise of discretion in applying Govern-*  
8 *ment authority or the use of value judgment in making de-*  
9 *cisions for the Government. The Secretary shall promulgate*  
10 *regulations or internal guidance to implement this section.*  
11 *This section is not intended, and may not be construed, to*  
12 *create any right or benefit, substantive or procedural, en-*  
13 *forceable at law by a party against the United States, the*  
14 *Department, its officers, or any person.*

15       *(b) CONFLICTS OF INTEREST.—(1) The Secretary shall*  
16 *by regulation require any person proposing to enter into*  
17 *a contract, grant, or cooperative agreement whether by*  
18 *sealed bid or negotiation, for the conduct of research, devel-*  
19 *opment, evaluation activities, or for consulting services, to*  
20 *provide the Secretary, prior to entering into any such con-*  
21 *tract, agreement, or arrangement, with all relevant infor-*  
22 *mation, as determined by the Secretary, bearing on whether*  
23 *that person has a possible conflict of interest with respect*  
24 *to—*

1           (A) being able to render impartial, technically  
 2           sound, or objective assistance or advice in light of  
 3           other activities or relationships with other persons; or

4           (B) being given an unfair competitive advan-  
 5           tage.

6           (2) Such person shall ensure, in accordance with regu-  
 7           lations prescribed by the Secretary, compliance with this  
 8           section by subcontractors of such person who are engaged  
 9           to perform similar services.

10          (3) For purposes of this subsection, the term “consult-  
 11          ing services” includes—

12               (A) management and professional support serv-  
 13               ices;

14               (B) studies, analyses, and evaluations;

15               (C) engineering and technical services, excluding  
 16               routine engineering services such as automated data  
 17               processing and architect and engineering contracts;  
 18               and

19               (D) research and development.

20          (c) REQUIRE AFFIRMATIVE FINDING; CONFLICTS OF  
 21          INTEREST WHICH CANNOT BE AVOIDED; MITIGATION OF  
 22          CONFLICTS.—(1) Subject to the provisions of paragraph  
 23          (2), the Secretary may not enter into any such contract,  
 24          agreement, or arrangement, unless he affirmatively finds,



1 *after evaluating all such information and any other rel-*  
2 *evant information otherwise available to him, either that—*

3 *(A) there is little or no likelihood that a conflict*  
4 *of interest would exist; or*

5 *(B) that such conflict has been avoided after ap-*  
6 *propriate conditions have been included in such con-*  
7 *tract, agreement, or arrangement.*

8 *(2) If the Secretary determines that such conflict of*  
9 *interest exists and that such conflict of interest cannot be*  
10 *avoided by including appropriate conditions therein, the*  
11 *Secretary may enter into such contract, agreement, or ar-*  
12 *rangement, if the Secretary—*

13 *(A) determines that it is in the best interests of*  
14 *the United States to do so; and*

15 *(B) includes appropriate conditions in such con-*  
16 *tract, agreement, or arrangement to mitigate such*  
17 *conflict.*

18 *(d) PUBLIC NOTICE REGARDING CONFLICTS OF INTER-*  
19 *EST.—The Secretary shall promulgate regulations which re-*  
20 *quire public notice to be given whenever the Secretary deter-*  
21 *mines that the award of a contract, agreement, or arrange-*  
22 *ment may result in a conflict of interest which cannot be*  
23 *avoided by including appropriate conditions therein.*

1       (e) *DISCLAIMER.*—*Nothing in this section shall pre-*  
 2 *clude the Department from promulgating regulations to*  
 3 *monitor potential conflicts after the contract award.*

4       (f) *CENTRAL FILE.*—*The Department shall maintain*  
 5 *a central file regarding all cases when a public notice is*  
 6 *issued. Other information required under this section shall*  
 7 *also be compiled. Access to this information shall be con-*  
 8 *trolled to safeguard any proprietary information.*

9       (g) *REGULATIONS.*—*No later than 120 days after the*  
 10 *effective date of this Act, the Secretary shall promulgate reg-*  
 11 *ulations for the implementation of this section.*

12   **SEC. 115. REFERENCES.**

13       *Reference in any other Federal law, Executive order,*  
 14 *rule, regulation, or delegation of authority, or any docu-*  
 15 *ment of or pertaining—*

16           (1) *to the Administrator of the Environmental*  
 17 *Protection Agency shall be deemed to refer to the Sec-*  
 18 *retary of the Environment;*

19           (2) *to the Environmental Protection Agency*  
 20 *shall be deemed to refer to the Department of the En-*  
 21 *vironment;*

22           (3) *to the Deputy Administrator of the Environ-*  
 23 *mental Protection Agency shall be deemed to refer to*  
 24 *the Deputy Secretary of the Environment; or*

1           (4) *to any Assistant Administrator of the Envi-*  
2           *ronmental Protection Agency shall be deemed to refer*  
3           *to an Assistant Secretary of the Department of the*  
4           *Environment.*

5   **SEC. 116. SAVINGS PROVISIONS.**

6           (a) *CONTINUING EFFECT OF LEGAL DOCUMENTS.*—All  
7           *orders, determinations, rules, regulations, permits, agree-*  
8           *ments, grants, contracts, certificates, licenses, registrations,*  
9           *privileges, and other administrative actions—*

10           (1) *which have been issued, made, granted, or al-*  
11           *lowed to become effective by the President, by the Ad-*  
12           *ministrator of the Environmental Protection Agency,*  
13           *or by a court of competent jurisdiction, in the per-*  
14           *formance of functions of the Administrator or the En-*  
15           *vironmental Protection Agency, and*

16           (2) *which are in effect at the time this Act takes*  
17           *effect, or were final before the effective date of this Act*  
18           *and are to become effective on or after the effective*  
19           *date of this Act,*

20           *shall continue in effect according to their terms until modi-*  
21           *fied, terminated, superseded, set aside, or revoked in accord-*  
22           *ance with law by the President, the Secretary of the Envi-*  
23           *ronment, or other authorized official, a court of competent*  
24           *jurisdiction, or by operation of law.*

1       (b) *PROCEEDINGS NOT AFFECTED.*—The provisions of  
2 this Act shall not affect any proceedings or any application  
3 for any license, permit, certificate, or financial assistance  
4 pending before the Environmental Protection Agency at the  
5 time this Act takes effect, but such proceedings and applica-  
6 tions shall be continued. Orders shall be issued in such pro-  
7 ceedings, appeals shall be taken therefrom, and payments  
8 shall be made pursuant to such orders, as if this Act had  
9 not been enacted, and orders issued in any such proceedings  
10 shall continue in effect until modified, terminated, super-  
11 seded, or revoked by a duly authorized official, by a court  
12 of competent jurisdiction, or by operation of law. Nothing  
13 in this subsection shall be deemed to prohibit the dis-  
14 continuance or modification of any such proceeding under  
15 the same terms and conditions and to the same extent that  
16 such proceeding could have been discontinued or modified  
17 if this Act had not been enacted.

18       (c) *SUITS NOT AFFECTED.*—The provisions of this Act  
19 shall not affect suits commenced before the date this Act  
20 takes effect, and in all such suits, proceedings shall be had,  
21 appeals taken, and judgments rendered in the same manner  
22 and with the same effect as if this Act had not been enacted.

23       (d) *NONABATEMENT OF ACTIONS.*—No suit, action, or  
24 other proceeding commenced by or against the Environ-  
25 mental Protection Agency, or by or against any individual

1 *in the official capacity of such individual as an officer of*  
 2 *the Environmental Protection Agency, shall abate by reason*  
 3 *of the enactment of this Act.*

4 (e) *ADMINISTRATIVE ACTIONS RELATING TO PROMUL-*  
 5 *GATION OF REGULATIONS.*—Any administrative action re-  
 6 *lating to the preparation or promulgation of a regulation*  
 7 *by the Environmental Protection Agency may be continued*  
 8 *by the Department with the same effect as if this Act had*  
 9 *not been enacted.*

10 (f) *PROPERTY AND RESOURCES.*—The contracts, li-  
 11 *abilities, records, property, and other assets and interests*  
 12 *of the Environmental Protection Agency shall, after the ef-*  
 13 *fective date of this Act, be considered to be the contracts,*  
 14 *liabilities, records, property, and other assets and interests*  
 15 *of the Department.*

16 (g) *SAVINGS.*—The Department of the Environment  
 17 *and its officers, employees, and agents shall have all the*  
 18 *powers and authorities of the Environmental Protection*  
 19 *Agency.*

20 **SEC. 117. CONFORMING AMENDMENTS.**

21 (a) *PRESIDENTIAL SUCCESSION.*—Section 19(d)(1) of  
 22 *title 3, United States Code, is amended by inserting before*  
 23 *the period at the end thereof the following: “, Secretary of*  
 24 *the Environment”.*

1       (b) *DEFINITION OF DEPARTMENT, CIVIL SERVICE*  
 2 *LAWS.*—Section 101 of title 5, United States Code, is  
 3 amended by adding at the end thereof the following: “The  
 4 Department of the Environment”.

5       (c) *COMPENSATION, LEVEL I.*—Section 5312 of title 5,  
 6 United States Code, is amended by adding at the end there-  
 7 of the following: “Secretary of the Environment”.

8       (d) *COMPENSATION, LEVEL II.*—Section 5313 of title  
 9 5, United States Code, is amended by striking out “Admin-  
 10 istrator of Environmental Protection Agency” and insert-  
 11 ing in lieu thereof “Deputy Secretary of the Environment”.

12       (e) *COMPENSATION, LEVEL IV.*—Section 5315 of title  
 13 5, United States Code, is amended—

14           (1) by striking out “Inspector General, Environ-  
 15 mental Protection Agency” and inserting in lieu  
 16 thereof “Inspector General, Department of the Envi-  
 17 ronment”; and

18           (2) by striking each reference to an Assistant Ad-  
 19 ministrator of the Environmental Protection Agency  
 20 and by adding at the end thereof the following:

21           “Assistant Secretaries, Department of the Envi-  
 22 ronment (12).

23           “General Counsel, Department of the Environ-  
 24 ment.”; and

1           (3) by striking out “Chief Financial Officer, En-  
2           vironmental Protection agency” and inserting in lieu  
3           thereof “Chief Financial Officer, Department of the  
4           Environment.”

5           (f) *COMPENSATION, LEVEL V.*—Section 5316 of title  
6           5, United States Code, is amended by adding at the end  
7           thereof the following:

8                     “Director of the Bureau of Environmental Sta-  
9                     tistics, Department of the Environment.

10                    “Executive Director of the Commission on Im-  
11                    proving Environmental Protection.”.

12           (g) *INSPECTOR GENERAL ACT.*—The Inspector General  
13           Act of 1978 is amended—

14                   (1) in section 2(1)—

15                             (A) by inserting “the Department of the  
16                             Environment,” after “Veterans Affairs,”; and

17                             (B) by striking out “The Environmental  
18                             Protection Agency,”;

19                   (2) in section 11(1) by striking out “or Veterans  
20                   Affairs” and inserting “Veterans Affairs, or the Envi-  
21                   ronment,”; and

22                   (3) in section 11(2) by striking out “or Veterans  
23                   Affairs” and inserting “Veterans Affairs, or the Envi-  
24                   ronment,”.

1 **SEC. 118. ADDITIONAL CONFORMING AMENDMENTS.**

2       *After consultation with the Committee on Govern-*  
 3 *mental Affairs and the Committee on Environment and*  
 4 *Public Works and other appropriate committees of the Unit-*  
 5 *ed States Senate and the appropriate committees of the*  
 6 *House of Representatives, the Secretary of the Environment*  
 7 *shall prepare and submit to the Congress legislation which*  
 8 *the Secretary determines is necessary and appropriate con-*  
 9 *taining technical and conforming amendments to the Unit-*  
 10 *ed States Code, and to other provisions of law, to reflect*  
 11 *the changes made by this Act.*

12 **TITLE II—ESTABLISHMENT OF**  
 13 **THE COMMISSION ON IM-**  
 14 **PROVING ENVIRONMENTAL**  
 15 **PROTECTION**

16 **SEC. 201. ESTABLISHMENT; MEMBERSHIP.**

17       (a) *ESTABLISHMENT.*—*There is established the Com-*  
 18 *mission on Improving Environmental Protection (hereafter*  
 19 *referred to as “the Commission”) whose 13 members includ-*  
 20 *ing the Chairman shall be composed of experts in govern-*  
 21 *mental organization (with emphasis on environmental or-*  
 22 *ganization), management of organizations and environ-*  
 23 *mental regulation and improved environmental govern-*  
 24 *mental service delivery, consisting of—*

25               (1) *seven members to be appointed by the*  
 26 *President;*



1           (2) *three members to be appointed by the Speak-*  
2       *er of the House; and*

3           (3) *three members to be appointed by the Senate*  
4       *Majority Leader.*

5       (b) *CHAIRMAN.—The Chairman of the Commission*  
6       *shall be appointed by the President in consultation with*  
7       *the Congress.*

8       **SEC. 202. COMMISSION RESPONSIBILITIES.**

9       (a) *RESPONSIBILITIES.—The Commission shall be re-*  
10      *sponsible for examining and making recommendations on*  
11      *the management and implementation of the environmental*  
12      *laws and programs within the jurisdiction of the Depart-*  
13      *ment of the Environment in order to enhance the ability*  
14      *of the Department to preserve and protect human health*  
15      *and the environment. The Commission shall make rec-*  
16      *ommendations and otherwise advise the President and the*  
17      *Congress on the need to—*

18           (1) *enhance and strengthen the management and*  
19      *implementation of existing programs within the De-*  
20      *partment;*

21           (2) *enhance the organization of the Department*  
22      *to eliminate duplication and overlap between different*  
23      *programs;*

24           (3) *enhance the coordination between different*  
25      *programs and offices within the Department;*

1           (4) *enhance the consistency of policies throughout*  
2       *the Department; and*

3           (5) *establish new and enhanced small business*  
4       *and small governmental jurisdictions compliance as-*  
5       *sistance programs, and to strengthen organizational*  
6       *mechanisms in the Department for providing better*  
7       *compliance and technical assistance to small busi-*  
8       *nesses and small governmental jurisdictions.*

9       (b) *RECOMMENDATIONS.—The Commission shall pro-*  
10      *vide specific steps and proposals for implementing the Com-*  
11      *mission's recommendations including an estimate of the*  
12      *costs of implementing such recommendations, except that*  
13      *the Commission shall not suggest substantive changes in the*  
14      *policy expressed by existing laws.*

15      (c) *CONFLICT OF INTERESTS.—For purposes of the*  
16      *provisions of chapter 11 of part I of title 18, United States*  
17      *Code, a member of the Commission (to whom such provi-*  
18      *sions would not otherwise apply except for this subsection)*  
19      *shall be a special Government employee.*

20      **SEC. 203. REPORT TO THE PRESIDENT AND CONGRESS.**

21      *The Commission shall report to the President and the*  
22      *Congress on its investigation, findings, and recommenda-*  
23      *tions in an interim report no later than 12 months after*  
24      *the effective date of this title, and in a final report no later*  
25      *than 24 months after the effective date of this title. The in-*

1 *terim report shall be made available for public review and*  
2 *comment, and the comments taken into account in finaliz-*  
3 *ing the report.*

4 ***SEC. 204. COMMISSION STAFF.***

5 *The Commission shall appoint an Executive Director*  
6 *who shall be compensated at a rate not to exceed the rate*  
7 *of basic pay prescribed for level V of the Executive Schedule*  
8 *under section 5316 of title 5, United States Code. With the*  
9 *approval of the Commission the Executive Director may ap-*  
10 *point and fix the compensation of staff sufficient to enable*  
11 *the Commission to carry out its duties.*

12 ***SEC. 205. ADVISORY GROUPS.***

13 *The Chairman shall convene at least one advisory*  
14 *group to assist the Commission in developing its rec-*  
15 *ommendations. One advisory group shall be composed of*  
16 *past staff of the Department of the Environment and its*  
17 *predecessor Environmental Protection Agency, other Fed-*  
18 *eral and State officials experienced in administering envi-*  
19 *ronmental protection programs, members of the regulated*  
20 *community and members of public interest groups orga-*  
21 *nized to further the goals of environmental protection. The*  
22 *Executive Director is authorized to pay members of advi-*  
23 *sory committees and others who perform services as author-*  
24 *ized under section 3109 of title 5, United States Code, at*  
25 *rates for individuals not to exceed the per diem rate equiva-*

1 *lent to the rate for level V of the Executive Schedule under*  
 2 *section 5316 of title 5, United States Code. The advisory*  
 3 *group shall be subject to the provisions of the Federal Advi-*  
 4 *sory Committee Act.*

5 **SEC. 206. TERMINATION OF COMMISSION.**

6 *No later than 90 days after the date on which the Com-*  
 7 *mission submits its final report, the Commission shall ter-*  
 8 *minate unless otherwise directed by the President.*

9 **SEC. 207. FUNDING; AUTHORIZATION OF APPROPRIATIONS.**

10 *There are authorized to be appropriated \$2,000,000 in*  
 11 *fiscal year 1993 and \$2,000,000 in fiscal year 1994 to carry*  
 12 *out the provisions of this title.*

13 **TITLE III—EFFECTIVE DATE**

14 **SEC. 301. EFFECTIVE DATE.**

15 *This Act and the amendments made by this Act shall*  
 16 *take effect on such date during the 6-month period begin-*  
 17 *ning on the date of enactment, as the President may direct*  
 18 *in an Executive order. If the President fails to issue an*  
 19 *Executive order for the purpose of this section, this Act and*  
 20 *such amendments shall take effect 6 months after the date*  
 21 *of the enactment of this Act.*

○

22 S 171 RCS—2

23 S 171 RCS—3

24 S 171 RCS—4

- 1 S 171 RCS—5
- 2 S 171 RCS—6
- 3 S 171 RCS—7